

In principle, the country of origin for unpublished works is the country to which the author belongs : such is the prescription of paragraph (5). In so far, however, as concerns works of architecture or of graphic or plastic art forming part of a building, appreciation of practice led to the more equitable solution of fixing as the country of origin the country where the works have been built or incorporated in a building.

Article 5, which lays down the equivalence of rights of nationals of countries of the Union who first publish their works in another country of the Union and the nationals of such latter country, is conserved in the same form as the texts of Berlin and Rome.

Article 6, which envisages restrictions capable of being imposed upon works of a non-Unionist author first published in a country of the Union, was not changed in its general sense. The Programme, however, proposed to specify more clearly the right of other countries of the Union to adopt such retaliatory measures as might have been taken by the country of first publication. A provision was accordingly added to paragraph (2) to provide that retaliatory measures are capable of producing a general effect throughout all Unionist countries, which, so to speak, thus unite to ensure the broadest protection of authors' rights.

To the Italian delegation must be attributed the inclusion in the Rome text of Article 6^{bis} of the Convention which is designed to fix the extent of the moral right of an author in connection with his work. The first desire expressed by France in this connection received the cordial support of the delegation of Poland, Czechoslovakia, and Belgium, and the discussions at Brussels opened under favourable auspices. Amendments worthy of consideration were proposed by Austria, Hungary, Norway, Spain, and Switzerland. Following a general discussion, the General Committee entrusted the task of reconciling the conflicting points of view to a special subcommittee. The French delegation wished the right to be inalienable, and that an author should be permitted to defend the integrity of his work to the extent of checking, by appropriate means, all acts prejudicial thereto. They succeeded in securing the acceptance of the extended conception of moral right which all the delegates had in mind, provided it did not go beyond the generally accepted notion of an author's rights. It was accordingly inscribed in paragraph (1) that the author, notwithstanding any assignment of his copyright, shall conserve, throughout his lifetime, the right of claiming authorship of his work in the face of any deformation thereof. The author is to have the right to take proceedings against all acts prejudicial to his honour or reputation, and the amplitude of the debate revealed that he should be protected equally in his capacity as a writer and in his personality as a literary figure. Hence the addition that he can oppose all prejudicial acts.

Paragraph (2) maintains the continuance of the moral right even after the death of the author, at least until the expiry of the patrimonial rights. This formula, without establishing a forced union between moral and patrimonial rights, will permit national Legislatures to institute, if they so desire, a longer duration of such rights, which could, if desired, even be perpetual.

If there can be a means of public action to provide respect for moral rights, it is natural to leave to national Legislatures the decision as to the persons or institutions who should be invested with the necessary powers, as well as the determination of conditions under which such powers may be exercised. Thus, paragraph (3) provides that the means of safeguarding an author's moral right shall be regulated by the law of the country where protection is claimed. Certain delegations appeared to fear that the notion of this personal right might prove a future obstacle to the accession to the Convention of certain countries whose interest in copyright is more deeply concerned with questions of its exploitation. It was thought that these apprehensions would prove unfounded. Indeed, the Finnish delegation directed attention to a paragraph of the American law on the right of copying which recognized the moral right of an author to prevent mutilation of a work, even when he had authorized its use for theatrical or other adaptation. Although destruction of a work was not specifically forbidden, the debate at least made clear the desire of the Conference to protect works effectively against all derogation. The Brussels Conference, having augmented authors' rights by surrounding them with new guarantees and conferring a more extended scope to the law bearing upon moral right, thus succeeded in providing evidence of the humanistic conception of the person who is entitled to respect not merely by lip-service, but also by the added weight of the Convention and of law.

The Conference also marked a new effort in the direction of standardizing the normal term of protection. A uniform term of fifty years was considered as a minimum, although Spain and Brazil, respectively, for eighty and sixty years after the death of an author, and Portugal imposes no limit of time. In view of the liberal declarations of Great Britain on the question of complete and unconditional protection, the International Bureau was able to agree to the suppression of the proposed new paragraph (3) of the Programme, which had been put forward with the peculiarities of British legislation specially in mind. The Swiss and Swedish Governments for their part abandoned a term of protection of less than fifty years from the death of the author. The British delegation withdrew its amendment seeking to insert in paragraph (1) the words "at least fifty years," which it felt would not longer serve any purpose if the principle of reciprocity was not to be abandoned in so far as concerned any longer period of protection. Paragraph (1) consequently remains unchanged by comparison with the Rome text.